

CONTRARIAN CAPITAL MANAGEMENT,
L.L.C., CONTRARIAN CAPITAL FUND I, L.P.,
CONTRARIAN DOME DU GOUTER MASTER
FUND, LP, CONTRARIAN CAPITAL SENIOR
SECURED, L.P., CONTRARIAN EM II, LP,
CONTRARIAN EMERGING MARKETS, L.P.,
BOSTON PATRIOT SUMMER ST LL.,
POLONIUS HOLDINGS, LLC, EMMA 1
MASTER FUND, L.P., CONTRARIAN FUNDS,
L.L.C., and E1 SP, A SEGREGATED
ACCOUNT OF EMAP SPC.

Plaintiffs,

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BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

Misc. Nos.: 21-mc-00018-LPS; 22-mc-00131-LPS; 22-mc-00263-LPS

DECLARATION OF GUSTAVO EDUARDO MARCANO

I, Gustavo Eduardo Marcano, declare that the following is true and correct:

1. I am Coordinator of the Council for the Administration and Protection of Assets (“CAPA”) of the Bolivarian Republic of Venezuela (the “Republic”). I have held this position since January 18, 2023. I am also a member of CAPA.

2. I submit this declaration in support of the Republic’s brief in opposition to Contrarian’s motion for a writ of attachment filed on April 26, 2023.

3. CAPA was created by the Law Reforming the Statute Governing the Transition to Democracy to Restore the Validity of the Constitution of the Bolivarian Republic of Venezuela (the “2023 Transition Statute”), enacted in December 2022 and effective January 4, 2023.

4. Under the 2023 Transition Statute, the PDVSA Ad Hoc Board is insulated from direct oversight by the National Assembly or officers of the Republic. CAPA, rather than the former Interim President, is vested with the authority to appoint and remove the members of the PDVSA Ad Hoc Board, subject to the approval of the National Assembly or the National Assembly's Delegated Commission. Although the National Assembly and its Delegated Commission have the power to authorize CAPA's decisions to appoint and remove the members of the PDVSA Ad Hoc Board, neither the National Assembly nor its Delegated Commission has rejected CAPA's appointments for any reason.

5. Throughout the period in which the 2023 Transition Statute has been in effect, the National Assembly and Delegated Commission and CAPA have not treated the assets of PDVSA or its direct or indirect United States subsidiaries as their own. Throughout that period, neither PDVSA nor its direct or indirect United States subsidiaries have transferred, by way or dividends or otherwise, any of their funds or other assets to the Republic.

6. At the same time it enacted the 2023 Transition Statute, the National Assembly enacted a Special Law of the Fund for the Liberation of Venezuela and Response to Vital Risk Factors (the "Special Law") concerning expenditures of resources in bank accounts abroad to carry out the objectives and purposes of the 2023 Transition Statute. CAPA has been attempting to obtain those resources from accounts belonging to the Central Bank of Venezuela. CAPA has not caused, and has not attempted, the transfer of any funds or other assets of PDVSA.

7. Throughout the period in which the 2023 Transition Statute has been in effect, PDVSA has not paid the Republic's legal fees. Rather, PDVSA has advanced funds to the Republic, following proper PDVSA Ad Hoc Board authorization protocols, for legal services in a handful of cases in which creditors of the Republic have directly threatened the interests of

PDVSA by seeking to attach PDVSA's assets in the United States to satisfy the debts of the Republic, where the Republic's participation as a litigant was necessary or desirable to PDVSA's effective defense of its assets. CAPA has agreed in writing that the Republic will repay PDVSA, with interest, after the Republic has obtained the necessary licenses from OFAC to obtain access to the Republic's own funds. The advancement has been approved by the Ad Hoc Board of PDVSA with the explicit finding that PDVSA has a direct interest in the attempts to attach PDVSA's property, and that therefore, it is also in PDVSA's own strategic and economic interest that the Republic exercise its rights to defend and reject the proposed alter ego theory.

8. Throughout the period in which the 2023 Transition Statute has been in effect, the National Assembly, its Delegated Commission, and CAPA have not paid for PDVSA's legal counsel in litigation in the United States. The Republic does not select, and CAPA has not selected and cannot select, counsel for PDVSA.

9. Throughout the period in which the 2023 Transition Statute has been in effect, the National Assembly, its Delegated Commission, and CAPA have not asserted control over PDVSA's litigation strategy or legal decisions.

10. Throughout the period in which the 2023 Transition Statute has been in effect, the National Assembly and Delegated Commission and CAPA have not directed the PDVSA Ad Hoc Board to pay debts or to stop paying debts of PDVSA.

11. Throughout the period in which the 2023 Transition Statute has been in effect, the National Assembly and Delegated Commission and CAPA have not announced a policy or made plans to treat the debts of the Republic and PDVSA the same in any debt restructuring.

12. Throughout the period in which the 2023 Transition Statute has been in effect, the National Assembly and Delegated Commission and CAPA have not exercised control over PDVSA's daily activities. In particular:

- a. PDVSA does not seek the National Assembly's approval for routine contracts entered by PDVSA or its direct or indirect subsidiaries. A provision of the Republic's Constitution, enacted before the Chavez and Maduro regimes assumed power, authorizes the National Assembly to review national public interest contracts with foreign entities, but these are not all PDVSA contracts.
- b. The National Assembly, Delegated Commission and CAPA have not sought to use the assets and property of PDVSA or of its direct or indirect United States subsidiaries for the benefit of the Republic.
- c. The National Assembly, Delegated Commission and CAPA have not influenced or interfered with the PDVSA Ad Hoc Board's direction of PDVSA or of PDVSA's direct or indirect United States subsidiaries.

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13. Thus, in accordance with the 2023 Transition Statute, the National Assembly and Delegated Commission have respected the autonomy and independence of the PDVSA, its Ad Hoc Board and its direct and indirect U.S. subsidiaries.

14. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Florida, on June 2, 2023.

DocuSigned by:

Gustavo Marciano

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GUSTAVO EDUARDO MARCANO